



ATTORNEY DOCKET NO.: 051252-5188

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Michael P. DALLMEYER et al.) Confirmation No. 4450
)
Application No.: 09/820,887) Group Art Unit: 3726
)
Filed: March 30, 2001) Examiner: S. Kenny
)
For: METHOD AND FABRICATING)
A MODULAR INJECTOR)

Commissioner for Patents
U.S. Patent & Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Non-Fee Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

RECEIVED
MAY 17 2004
TECHNOLOGY CENTER R3700

Sir:

REQUEST FOR RECONSIDERATION TRANSMITTAL FORM

1. Transmitted herewith is an Amendment in response to the non-final Office Action dated February 13, 2004.
2. Additional papers enclosed:
 - ☐ Drawings: ☐ Formal ☐ Informal (Correction)
 - ☐ Information Disclosure Statement
 - ☐ Form PTO-1449, _____ references included
 - ☐ Citations
 - ☐ Declaration of Biological Deposit
 - ☐ Submission of "Sequence Listing", computer readable copy and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence.

3. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

☒ Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicants have inadvertently overlooked the need for a petition and fee for extension of time.

☐ Applicants petition for an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 420.00	\$ 210.00
<input type="checkbox"/> three months	\$ 950.00	\$ 475.00
<input type="checkbox"/> four months	\$ 1,480.00	\$ 740.00

Extension of time fee due with this request: \$0.00.

If an additional extension of time is required, please consider this a Petition therefor.

☐ An extension for _____ months has already been secured and the fee paid therefor of \$_____ is deducted from the total fee due for the total months of extension now requested.

4. Constructive Petition

☒ **EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

5. Fee Calculation (37 C.F.R. §1.16)

CLAIMS AS AMENDED						
	Claims Remaining After Amendment		Highest No. Previously Paid	Present Extra	at Rate of	Total Fees
Total Claims (37 C.F.R. §1.16(c))	39	minus	39	0	x \$18 each =	+ \$0.00
Independent Claims (37 C.F.R. §1.16(b))	3	minus	3	0	x \$86 each =	+ \$0.00
[] First presentation of Multiple dependent claim(s)					\$290.00	+ \$0.00
SUB-TOTAL =						\$0.00
Reduction by ½ for filing by a small entity						- \$0.00
TOTAL FEE =						\$0.00

6. Fee Payment

- ☒ No fee is to be paid at this time.
- ☐ The Commissioner is hereby authorized to charge Deposit Account No. 50-0310 in the amount of \$_____ for the ____-month extension of time fee.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, including fees due under 37 C.F.R. §§ 1.16 and 1.17, or credit any overpayment to Deposit Account 50-0310.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: May 13, 2004

By: _____

Khoi Q. Ta
Reg. No. 47,300**Customer No. 009629****MORGAN, LEWIS & BOCKIUS LLP**

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Telephone: (202) 739-3000

Facsimile: (202) 739-3001



ATTORNEY DOCKET NO.: 051252-5188

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Michael P. DALLMEYER et al.)	Confirmation No. 4450
)	
Application No.: 09/820,887)	Group Art Unit: 3726
)	
Filed: March 30, 2001)	Examiner: S. Kenny
)	
For: METHOD AND FABRICATING)	
A MODULAR INJECTOR)	

Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Non-Fee Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Sir:

RECEIVED
MAY 17 2004
TECHNOLOGY CENTER F3700

REQUEST FOR RECONSIDERATION

In response to the non-Final Office Action dated February 13, 2004, which period for reply extending through May 13, 2004, reconsideration of the claims is requested in view of the following remarks.

The non-Final Office Action dated February 13, 2004 has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. No claim has been amended. Accordingly, applicants respectfully request reconsideration of claims 1-39.

Claims 1-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over International Publication Number WO 00/43666 to Kummer in view of U.S. Patent No. 5,803,983 to Simandl et al. (Simandl). Applicants respectfully traverse this rejection because Kummer and Simandl, whether considered singularly or in combination thereof, fail to teach or suggest the claimed invention as a whole.

Each of claims 1, 6, and 15 recites a method of fabricating a fuel injector that includes, *inter alia*, two discrete steps: fabricating a fuel group in a clean room and fabricating a power group exterior of the clean room. That is, one specified subassembly of the fuel injector (a fuel

group) is fabricated in a particular environment (i.e., a clean room) distinct from the environment of another specified subassembly (i.e., a power group in another location outside of the clean room).

The Examiner confirms that Kummer fails to show or describe these two distinct steps for the two distinct subassemblies of the claimed invention as a whole. The Examiner thereafter relies upon Simandl to conclude that it would have been obvious for one of ordinary skill to fabricate one subassembly of Kummer in a clean room and another subassembly outside of the clean room. Simandl, however, states, at column 1: lines 52-53, that the assembly includes “the assembly of the fuel injectors in clean rooms or under clean-room type conditions” instead of the fabricating of one specified subassembly in a clean room and another specified subassembly outside of the clean room. That is, Simandl’s statement refers to the assembly of an entire fuel injector without regard to fabricating one specified subassembly at one particular environment and another specified subassembly exclusive of that one particular environment.

One of ordinary skill in the art, viewing Kummer and Simandl, would, at most, assemble both subassemblies and the fuel injector of Kummer in a clean room, as described by Simandl, instead of one specified subassembly in the particular environment of a clean room and another subassembly outside of that one particular clean room environment. Absent the benefit of applicants’ disclosure, there is no suggestion or motivation to perform these distinct steps for distinct subassemblies of Kummer. Consequently, Simandl fails to cure the deficiencies of the Kummer. Because Simandl fails to show or describes these two distinct steps for two distinct subassemblies of a fuel injector such as Kummer, Simandl fails to cure the deficiencies of Kummer. Thus, Kummer in view of Simandl fail to teach or suggest all of the claimed features as required for a *prima facie* case of obviousness as set forth in MPEP § 2143 (p. 2100-125, 8th Ed., Rev. 1, Feb. 2003). Accordingly, claims 1, 16, and 15 are patentable over Kummer and Simandl, whether considered alone or in combination thereof.

Claims 2-5, 7-14, and 16-39 depend ultimately from one of allowable claims 1, 6, and 15, are therefore also allowable as well as for reciting additional features. For example, claims 4, 13, 18, and 29 further recite that the inserting of one group into another group is done outside the clean room. By way of another example, claims 5, 25, and 30 further recite that the connecting between the two groups is also done outside the clean room.